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10/632,250	08/01/2003	Christopher M. Pirich	MS1-1692US	3300
22801	7590	06/29/2007		
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			EXAMINER HOFFMAN, BRANDON S	
			ART UNIT	PAPER NUMBER
			2136	
			NOTIFICATION DATE	DELIVERY MODE
			06/29/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

lhptoms@leehayes.com

## Office Action Summary

**Application No.**

10/632,250

**Applicant(s)**

PIRICH ET AL.

**Examiner**

Brandon S. Hoffman

**Art Unit**

2136

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-29 and 31-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 and 31-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1-10-07</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

1. Claims 1-29 and 31-35 are pending in this action, claims 30 and 36 are canceled.

### ***Information Disclosure Statement***

2. The information disclosure statement (IDS) submitted on January 10, 2007, is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

3. Applicant's arguments, filed April 9, 2007, have been considered and are persuasive. However, a new ground of rejection is made.

### ***Specification***

4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: claim 290 cites computer-readable tangible media, whereas the specification does not provide antecedent basis for computer-readable tangible media.

### ***Claim Rejections***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
8. Claim 10 recites the limitation "media type allowed flag." There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1-29 and 31-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Whitten et al. (U.S. Patent Pub. No. 2003/0182574) in view of Kocher et al. (U.S. Patent No. 2002/0141582).

Regarding claims 1, 25, and 28, Whitten et al. teaches an apparatus/method comprising:

- A media including game content (paragraph 0027); and
- A data protection portion that includes:

- A file alteration checking portion **which** protects the media from modification of the game content by determining whether the game content has been modified, and if the game content has been modified, then the installation of the game content within the apparatus fails (fig. 5 and fig. 6, ref. num 445).

Whitten et al. does not teach a media type checker.

Kocher et al. teaches a **media type checking portion for checking whether the media is as expected for an original media that has not been copied by reading a media type used flag from an executable located on the media, wherein the media type used flag indicates a type of media that the executable should be contained within, and if the type of media of the executable is not as expected, then installation of the game content within the apparatus fails** (paragraph 0057).

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to combine a media type checker, as taught by Kocher et al., with the apparatus/method of Whitten et al. It would have been obvious for such modifications because checking the media type provides an additional layer of security to prevent duplicating of content (see paragraph 0057 of Kocher et al.).

Regarding claim 2, Whitten et al. as modified by Kocher et al. teaches wherein the game content includes music that can be played on the game console (see paragraph 0032 of Whitten et al.).

Regarding claim 3, Whitten et al. as modified by Kocher et al. teaches wherein the game content includes audio that can be played on the game console (see paragraph 0035 of Whitten et al.).

Regarding claim 4, Whitten et al. as modified by Kocher et al. teaches wherein the game content includes non-game related material that can be played on the game console (see paragraph 0032-0035 of Whitten et al.).

Regarding claim 5, Whitten et al. as modified by Kocher et al. teaches wherein the game content includes game related material that can be played on the game console (see paragraph 0027 of Whitten et al.).

Regarding claims 6 and 21, Whitten et al. as modified by Kocher et al. teaches wherein the media includes a removable media that is removable from the apparatus (see fig. 2, ref. num 200 of Kocher et al.).

Regarding claim 7, Whitten et al. as modified by Kocher et al. teaches wherein the media includes a removable media that is removable from the apparatus, and

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wherein the removable media includes an optical disk (see fig. 2, ref. num 200 of Kocher et al.).

Regarding claim 8, Whitten et al. as modified by Kocher et al. teaches wherein the media includes a removable media that is removable from the apparatus, wherein the removable media includes a digital video disk (see paragraph 0005 of Kocher et al.).

Regarding claims 9 and 22, Whitten et al. as modified by Kocher et al. teaches wherein the apparatus includes a game console (see fig. 2, ref. num 100 of Whitten et al.).

Regarding claim 10, Whitten et al. as modified by Kocher et al. teaches wherein the **media type allowed flag also indicates whether a media type check should be performed** (see paragraph 0057 of Kocher et al.).

Regarding claim 11, Whitten et al. as modified by Kocher et al. teaches wherein the media type checking portion reduces the possibility of copying the game content from a pressed disk to an end user writable disk **by indicating when the pressed disk is an appropriate type** (see paragraph 0057 of Kocher et al.).

Regarding claim 12, Whitten et al. as modified by Kocher et al. teaches wherein the data protection portion checks the entire file to ensure that the media has not been invalidated (see paragraph 0057-0059 of Whitten et al.).

Regarding claim 13, Whitten et al. as modified by Kocher et al. teaches wherein the data protection portion includes a file signature checking portion for checking whether the file signature is as expected for media that has not been modified (see paragraph 0093 of Kocher et al. and paragraph 0060 and 0064 of Whitten et al.).

Regarding claims 14 and 24, Whitten et al. as modified by Kocher et al. teaches wherein the data protection portion includes a file signature checking portion for checking whether the file signature is as expected for media that has not been modified, and wherein a signature check is performed on files as they are installed, **to determine whether any of the files have been altered** (see paragraph 0093 of Kocher et al. and paragraph 0060 and 0064 of Whitten et al.).

Regarding claim 15, Whitten et al. as modified by Kocher et al. teaches wherein the data protection portion checks the contents of a file as it is opened (see paragraph 0063 of Whitten et al.).

Regarding claim 16, Whitten et al. as modified by Kocher et al. teaches wherein the file alteration checking portion allows sector level validation rather than file level validation (see paragraph 0062-0063 of Whitten et al.).

Regarding claims 17 and 27, Whitten et al. as modified by Kocher et al. teaches wherein the game content is stored in a game console specific format (see paragraph 0025 and 0027 of Whitten et al.).



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Regarding claims 18 and 26, Whitten et al. as modified by Kocher et al. teaches wherein the media content includes non-game content (see paragraph 0032-0035 of Whitten et al.).

Regarding claims 19 and 23, Whitten et al. as modified by Kocher et al. teaches wherein the media content includes non-game content, and wherein the non-game content is stored in a non-game console specific format (see paragraph 0032-0035 of Whitten et al.).

Regarding claims 20 and 29, Whitten et al. teaches a method/computer readable media comprising:

- Comparing an actual signature of a table of contents from a media with an expected signature of the table of contents **to determine whether contents of the file have been altered** (fig. 5 and fig. 6, ref. num 445);
- Calculating an actual signature **based on reading clusters of data from the media**, and comparing the actual signature with an expected signature found in the table of contents for every cluster of data read **to determine whether contents of the file have been altered** (fig. 7, ref. num 452); and
- Installing the file when both the actual signature of the table of contents from the media matches the expected signature of the table of contents, and the actual signature which was calculated matches the expected signature found in the table of contents for every cluster of data read (fig. 6, ref. num 448).

Whitten et al. does not teach a media type checker.

Kocher et al. teaches **checking whether a type of media containing a file is as expected for media that has not been copied by reading a media type used flag from an executable located on the media, wherein the media type used flag indicates a type of media that the executable should be contained within if the media is original, and if the type of media of the executable is not as expected, then installation of the file fails, and if the media type of the executable is as expected** (paragraph 0057).

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to combine a media type checker, as taught by Kocher et al., with the method/computer readable media of Whitten et al. It would have been obvious for such modifications because checking the media type provides an additional layer of security to prevent duplicating of content (see paragraph 0057 of Kocher et al.).

Regarding claim 31, Whitten et al. teaches a method comprising:

- Locating an expected control data signature from a standard executable;
- Locating control data from a standard executable and computing a computed control data signature in response to the control data;
- Determining whether the computed control data signature matches the expected control data signature (fig. 5 and fig. 6, ref. num 445);
- Reading expected file data block signatures from the control data;

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- Loading a file data block, and computing a computed file data block signature in response to the file data block; and
- Determining whether the computed file data block signature matches the expected file data block signature (fig. 7, ref. num 452).

Whitten et al. does not teach a media type checker.

Kocher et al. teaches **locating a standard executable on a media, wherein the standard executable includes a media type used flag which indicates a type of media that the executable should be contained within and determining whether the media type indicated in the executable match that of the media** (paragraph 0057).

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to combine a media type checker, as taught by Kocher et al., with the method of Whitten et al. It would have been obvious for such modifications because checking the media type provides an additional layer of security to prevent duplicating of content (see paragraph 0057 of Kocher et al.).

Regarding claim 32, Whitten et al. as modified by Kocher et al. teaches further comprising failing to install game content in a game console if the computed control data signature does not match the expected control data signature (see paragraph 0062 of Whitten et al.).

Regarding claim 33, Whitten et al. as modified by Kocher et al. teaches further comprising failing to install game content in a game console if the computed **file data block signature does not match the file data block signature** (see paragraph 0062 of Whitten et al.).

Regarding claim 34, Whitten et al. as modified by Kocher et al. teaches further comprising launching the game content in a game console if the computed control data signature matches the expected control data signature (see paragraph 0064 of Whitten et al.).

Regarding claim 35, Whitten et al. as modified by Kocher et al. teaches further comprising launching the game content in a game console if the computed file data block signature matches the expected file data block signature (see paragraph 0064 of Whitten et al.).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brandon S. Hoffman whose telephone number is 571-272-3863. The examiner can normally be reached on M-F 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nasser G. Moazzami can be reached on 571-272-4195. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Brandon Hoffman/

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